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[38 FR 8056, Mar. 28, 1973, as amended at 78 FR 5124, Jan. 24, 2013]

PART 1203b—SECURITY PROGRAMS; ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY FORCE PERSONNEL

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AUTHORITY: The National and Commercial Space Program (51 U.S.C.). Sections 20132 and 20133 *et seq.*

SOURCE: 57 FR 4926, Feb. 11, 1992, unless otherwise noted.

§ 1203b.100 Purpose.

This regulation implements 51 U.S.C. National and Commercial Space Programs, sections 20133 and 20134, by establishing guidelines for the exercise of arrest authority and for the exercise of physical force, including deadly force, in conjunction with such authority.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5124, Jan. 24, 2013]

§ 1203b.101 Scope.

This part applies to only those NASA and NASA contractor security force personnel who are authorized to exercise arrest authority in accordance with 51 U.S.C. 20134 and this regulation.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5124, Jan. 24, 2013]

§ 1203b.102 Definitions.

Accredited Course of Training. A course of instruction offered by the NASA Protective Services Training

Academy, or an equivalent course of instruction offered by another Federal agency. See § 1203b.103(a)(1).

Arrest. An act, resulting in the restriction of a person's movement, other than a brief detention for purposes of questioning concerning a person's identity and requesting identification, accomplished by means of force or show of authority under circumstances that would lead a reasonable person to believe that he/she was not free to leave the presence of the officer.

Contractor. NASA contractors and subcontractors at all levels.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5125, Jan. 24, 2013]

§ 1203b.103 Arrest authority.

(a) NASA security force personnel may exercise arrest authority, provided that:

(1) They have graduated from an accredited training course (see § 1203b.102(a)); and

(2) They have been certified in writing by the Assistant Administrator for Protective Services, or designee, as specifically authorized to exercise arrest authority.

(b) The authority of NASA security force personnel to make a warrantless arrest is subject to the following conditions:

(1) The arresting officer must be guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of NASA or one of its contractors or subcontractors, at facilities owned by or contracted to NASA; and

(2) The person to be arrested has committed in the arresting officer's presence an offense against the United States Government, NASA, or a NASA contractor; or

(3) The arresting officer has reasonable grounds to believe that the person to be arrested has committed or is committing any felony cognizable under the laws of the United States.

(c) The Office of the General Counsel, NASA Headquarters, or the Center Chief Counsel's Office, as appropriate, shall provide guidance as to the applicability of these regulations.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5125, Jan. 24, 2013]

§ 1203b.104

§ 1203b.104 Exercise of arrest authority—general guidelines.

(a) In making an arrest, the security force personnel should announce their authority and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such an announcement would be useless or dangerous to the security force personnel or others, the security force personnel may dispense with these announcements, but must subsequently identify themselves and their arrest authority to the arrested person(s) as soon as reasonably possible.

(b) The security force personnel at the time and place of arrest may search the arrested person and the area immediately surrounding the arrested person for weapons and criminal evidence. This is to protect the arresting officer and to prevent the destruction of evidence.

(c) Custody of the person arrested should be transferred to other Federal law enforcement personnel (e.g., United States Marshals or FBI agents) or to local law enforcement agency personnel, as appropriate, as soon as possible, in order to ensure the person is brought before a magistrate without unnecessary delay.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5125, Jan. 24, 2013]

§ 1203b.105 Use of non-deadly physical force when making an arrest.

When a security force personnel has the right to make an arrest, as discussed in §1203b.103, the officer may use only that non-deadly physical force which is reasonable and necessary to apprehend and arrest the offender; to prevent the escape of the offender; or to defend himself/herself or a third person from what the security force officer reasonably believes to be the use or threat of imminent use of non-deadly physical force by the offender. Verbal abuse alone by the offender cannot be the basis under any circumstances for use of non-deadly physical force by a security force officer.

[57 FR 4926, Feb. 11, 1992, as amended at 78 FR 5125, Jan. 24, 2013]

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§ 1203b.106 Use of deadly force.

NASA security force personnel may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

(a) Deadly force may not be used solely to prevent the escape of a fleeing suspect.

(b) Firearms may not be fired solely to disable moving vehicles.

(c) If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

(d) Warning shots are not permitted outside of the prison context.

(e) Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy.

[78 FR 5125, Jan. 24, 2013]

§ 1203b.107 Use of firearms.

(a) If it becomes necessary to use a firearm in any of the circumstances described in §1203b.106, NASA security force personnel shall comply with the following precautions whenever possible:

(1) Give an order to halt or desist before firing.

(2) Do not fire if shots are likely to harm innocent bystanders.

(3) Shoot to stop.

(b) Warning shots are not authorized.

(c) In the event that a security force personnel discharges a weapon while in a duty status:

(1) The incident shall be reported to the Center Chief of Security who, in turn, will report it to the NASA Assistant Administrator for Protective Services as expeditiously as possible, with as many details supplied as are available.

(2) The officer shall be promptly suspended from duty with pay or reassigned to other duties not involving the use of a firearm, as the Center Director or the Assistant Administrator for Protective Services deems appropriate, pending investigation of the incident.

(3) The cognizant Center Director, or for incidents occurring at NASA Headquarters, the Executive Director for Headquarters Operations, shall appoint an investigating officer to conduct a thorough investigation of the incident. Additional personnel may also be appointed, as needed to assist the investigating officer. Upon conclusion of the investigation, the investigating officer shall submit a written report of findings and recommendations to the appropriate Installation Director or the Assistant Administrator for Protective Services.

(4) Upon conclusion of the investigation, the Center Director or the Assistant Administrator for Protective Services, with the advice of Counsel, shall determine the disposition appropriate to the case.

(d) Firearms will be periodically inspected and kept in good working order by a qualified gunsmith. Ammunition, holsters, and related equipment will be periodically inspected for deterioration and kept in good working order. Firearms and ammunition will be securely stored separately in locked containers. Firearms will not be stored in a loaded condition. Neither firearms nor ammunition will be stored in the same containers as money, drugs, precious materials, or classified information. NASA Headquarters and each Installation shall adopt procedures for the maintenance of records with respect to the issuance of firearms and ammunition.

[57 FR 4926, Feb. 11, 1992, as amended at 58 FR 5263, Jan. 21, 1993; 78 FR 5125, Jan. 24, 2013]

§ 1203b.108 Management oversight.

(a) The Administrator shall establish a committee to exercise management oversight over the implementation of arrest authority.

(b) The Administrator shall establish a reporting requirement for NASA Headquarters and NASA Centers.

(c) The Assistant Administrator for Protective Services, or designee, will ensure that all persons who are authorized to exercise arrest authority will, before performing these duties:

(1) Receive instructions on regulations regarding the use of force, including deadly force; and

(2) Demonstrate requisite knowledge and skill in the use of unarmed defense techniques and their assigned firearms.

(d) The Associate Assistant Administrator for Protective Services, or designee, will also:

(1) Ensure periodic refresher training to maintain continued proficiency and current knowledge of unarmed defense techniques;

(2) Require security force personnel exercising arrest authority to requalify semiannually with their assigned firearms; and

(3) Require periodic refresher training to ensure continued familiarity with regulations.

(e) The Executive Director for Headquarters Operations, and Center Directors shall issue local policies and procedural requirements, subject to prior NASA Headquarters approval, which will supplement this regulation for NASA Headquarters or NASA Center-specific concerns.

[57 FR 4926, Feb. 11, 1992, as amended at 58 FR 5263, Jan. 21, 1993; 78 FR 5125, Jan. 24, 2013]

§ 1203b.109 Disclaimer.

These regulations are set forth solely for the purpose of internal National Aeronautics and Space Administration guidance. They are not intended to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, and they do not place any limitations on otherwise lawful activities of security force personnel or the National Aeronautics and Space Administration.

[57 FR 4926, Feb. 11, 1992, as amended at 58 FR 5263, Jan. 21, 1993; 78 FR 5125, Jan. 24, 2013]

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subparts 1–3 [Reserved]

Subpart 4—Small Business Policy

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1204.402 Responsibilities.

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